

PLANNING COMMISSION MINUTES OF JULY 10, 2006

2006-0467 – Appeal of the Administrative Hearing Officer denial of an application for a Variance from Sunnyvale Municipal Code section 19.48.020 for a new fence greater than three feet in the corner vision triangle. The property is located at **1386 Lewiston Drive** (near Cascade Dr.) in an R-1(Low Density Residential) Zoning District. (APN: 323-05-005) SL

Andrew Miner, Principal Planner, presented the staff report. He said this property is not unique or extraordinary as there are many similar corner lot configurations in Sunnyvale with a similar set of circumstances and granting of this Variance could create a precedent for other situations. He said staff was unable to make the findings and is recommending denial of the appeal and denial of the variance. Mr. Miner said a revised Attachment H has been provided on the dais, replacing a set of the wrong minutes with the correct minutes of the June 12, 2006 Administrative Hearing.

Comm. Hungerford asked staff to further comment about the many similar corner lot configurations that Mr. Miner mentioned. **Trudi Ryan**, Planning Officer, said the type of lot configuration staff is referring to is a property at the corner of a cul-de-sac that has a small number of homes in the cul-de-sac.

Comm. Ghaffary commented that on corner lots it is common that the back yard and the side yard are combined except the back yard is fenced. Ms. Ryan said that this is similar to other properties at the corner of cul-de-sacs and that the more narrow side of the property is called the front yard and the side yard by the street is called the reducible front yard.

Chair Klein opened the public hearing.

Ronen Sigura thanked the Planning Commission for hearing the appeal. He said he feels his property is unique. He said he would like to note that the speed limit is very slow and anyone who drives into Lewiston Court has to slow down almost to a stop due to a depression in the roadway. He said anyone entering the cul-de-sac has a 100% line-of-sight of his property prior to making the right hand turn into Lewiston Court. He said the proposed fence is not an endangerment or traffic issue. He said the proposed fence is almost 100% see-through, will beautify the neighborhood and that the landscaping plan ties the side yard to the front yard and will not be an obstruction. He said he is requesting the 5 foot 6 inch fence instead of the allowed 3-foot fence as he has little children and would like to feel secure in his yard. He said they have a spa and they would like the taller fence to help protect their home. He said he believe the 5 foot 6 inch iron fence would help prevent people from coming on to the property. He said the current fence is an unappealing wooden fence and his

goal is to provide a high-quality project that will beautify the neighborhood and not endanger anyone.

Comm. Hungerford asked Mr. Sigura if the proposal is to take out the existing wooden fence and replace it with the proposed fence. Mr. Sigura said yes that he would like to combine the side fence with the front fence and referenced four other cases, 1985-0386, 2002-0931, 2002-0934, 2002-0737 that were similar variance requests that were approved for variances from the vision triangle. Comm. Hungerford confirmed with Mr. Sigura that the spa is in the backyard. Mr. Sigura said what they are proposing is to combine the backyard with the side and front yard to have one large beautifully landscaped yard that would be secure and protected.

Comm. Ghaffary asked Mr. Sigura about the spikes on the top of the fence. Mr. Sigura said the spikes are high-quality, curved and not sharp and would not puncture. Comm. Ghaffary referred to Attachment D, page 1, the Photoshop rendering of the proposed fence, and said the picture does not show the concrete posts. Mr. Sigura said he realized this and to show the posts he provided the drawing of the fence in Attachment F, page 4. He provided a correction to the drawing specifications and said the drawing shows that the iron fence sections are 8 feet, but that the iron fences sections are actually 10 feet in width.

Vice Chair Sulser asked staff to comment on the four approved variances that Mr. Sigura referenced and how this application may be different from these approved variances. Ms. Ryan commented that the minutes for two of the cases, 2002-1931 and 2002-0934 were attached in error as Attachment H, and that she has no information with her regarding the 1985 variance. She said according to the minutes and her memory that the designs of the fences on the other variances were a bit different and two were driveway vision triangle variances.

Al Anderson, a resident of Sunnyvale, spoke in support of the project. He said Mr. Sigura has been a neighbor for seven years and that he is continually improving his property. He said he feels that the proposed fence would be an improvement for the neighborhood and that he is all for it.

Mike Marcellini, a resident of Sunnyvale, spoke in support of the project. He said Mr. Sigura spoke with many of the neighbors and made adjustments as needed and collected many signatures in support of the fence variance. He said a couple of neighbors are not comfortable with the variance. Mr. Marcellini said he is comfortable with the design, that he does not find any issue with the vision triangle concerns, and that replacing the wooden fence with the proposed fence would improve the neighborhood. He said he is a neighbor and has kids and has no issues regarding this fence being a safety issue.

Glenn Morley, a resident of Sunnyvale, spoke in support of the project. He said he is a neighbor of Mr. Sigura and commented that Mr. Sigura maintains his

property well, and puts money into improving his property, which improves the neighborhood. Mr. Morley commented that if the rest of the neighbors did the same it would be a better neighborhood. He expressed his support of the proposed plans.

Chair Klein closed the public hearing.

Comm. Hungerford asked staff if they know what the parking requirements are for parking near a corner as Attachment D, page 1 shows a vehicle parked near the corner. He said on his site visit that the vehicles parked around the corner were his biggest obstruction in making the turn out of the cul-de-sac and on to Lewiston Drive. Ms. Ryan said she is not an on-street parking requirement expert, but based on the picture in Attachment D that she believes the vehicle is legally parked, and that there is some limit on how close a vehicle can be parked near the corner.

Comm. Rowe commented that she has a copy of the single-family design techniques and it shows possible fencing for corner lots. She said the suggestions are low shrubs and low fencing so there are no visual barriers created and that the design techniques indicate that front yard fencing should be kept low and open in character. Ms. Ryan confirmed that anything up to three feet can be reviewed and approved at the staff level without a variance.

Comm. Babcock moved for Alternative 1 to deny the variance. Comm. Simons seconded the motion.

Comm. Babcock said she is unable to make the findings to approve the variance. She said she applauds the applicant for working with the neighbors and likes the design of the fence. She said she would like to see it set back so it is not encroaching into the vision triangle, and it would still improve the neighborhood.

Comm. Rowe said she is unable to make the findings to approve the variance. Comm. Rowe said the Commission has guidelines to follow in making their decisions and that she feels this proposal does not warrant approval based on the guidelines. She said there are neighbors in support of allowing the variance, but other neighbors that feel the 5 foot 6 inch fence is too high. She said each variance has to be weighed and she could not find that approval of the variance would be in the best interest of the neighborhood. Comm. Rowe complimented the homeowner on the beautiful enhancements that the applicant has already made to his property and said that she would like to see the applicant come up with a compromise that would allow a similar fence and meet the guidelines of the City.

Comm. Simons said he agrees with his fellow commissioners and could not make all of the findings. He said he could possibly make one of the findings, that

this lot might be unique because of the shape of the cul-de-sac. He agreed that the design is wonderful, but commented that there may be durability issues as he had a neighbor that had a similar fence that only lasted about 15 years and had to be removed due to corrosion.

ACTION: Comm. Babcock made a motion on 2006-0467 uphold the decision of the Administrative Hearing Officer to deny the Variance. Comm. Simons seconded. Motion carried unanimously, 7-0.

APPEAL OPTIONS: This item is final unless appealed to the City Council no later than July 25, 2006.